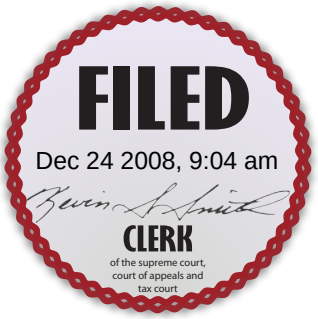

ATTORNEY FOR APPELLANT:

PATRICIA CARESS MCMATH
Indianapolis, Indiana

ATTORNEYS FOR APPELLEE:

STEVE CARTER
Attorney General of Indiana

RICHARD C. WEBSTER
Deputy Attorney General
Indianapolis, Indiana

IN THE
COURT OF APPEALS OF INDIANA

T.T.,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 49A02-0805-JV-454
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Beth Jansen, Judge
Cause Nos. 49D09-0705-JD-1468
49D09-0603-JD-966
49D09-0503-JD-1399
49D09-0410-JD-4634

December 24, 2008

MEMORANDUM DECISION - NOT FOR PUBLICATION

BARNES, Judge

Case Summary

T. T. appeals his delinquency adjudication for Class A misdemeanor battery, and his commitment to the Department of Correction ("DOC"). We affirm.

Issues

The issues before us are:

I. whether there is sufficient evidence to uphold T.T.'s adjudication for battery; and

II. whether the juvenile court abused its discretion when it committed T.T. to the DOC until he reaches age twenty-one.

Facts

On May 4, 2007, Charles Stinson was riding his bike westbound on Washington Street in Indianapolis when he observed five boys walking toward him. As Stinson neared the group, the group split. Stinson attempted to ride through the group, but when he did, the boys struck Stinson in the face and on the head with their fists. The assaults resulted in bodily injury to Stinson.

Stinson dismounted his bicycle and fled from the juveniles. The group walked away from the scene. Stinson followed them from a short distance, but kept them in sight. A police car passed, and Stinson was able to flag it down; he informed Officer Charles King what had happened. Indianapolis Metropolitan Police quickly apprehended

the five boys. Stinson identified T.T. as one of the boys who assaulted him. Stinson said out of the five boys who hit him, he was positive he knew who hit him first and last. Stinson stated T.T. hit him first, and he knew this because T.T. was the first boy to reach him. He also identified T.T. by the clothes he was wearing.

The State alleged T.T. was delinquent for committing Class A misdemeanor battery. The juvenile court adjudicated T.T. to be delinquent. In its disposition of T.T.'s case, the juvenile court considered all relevant facts and circumstances, including the predispositional report. The juvenile court committed T.T. to the DOC until he reaches age twenty-one. T.T. now appeals his delinquency adjudication and commitment to the DOC.

Analysis

I. Sufficiency of the Evidence

T.T. challenges the sufficiency of the evidence that supports his conviction. In reviewing a sufficiency of the evidence in a juvenile adjudication, we do not re-weigh the evidence nor judge the credibility of the witnesses. Instead, we look only to the evidence most favorable to the trial court's judgment and to the reasonable inferences to be drawn from that evidence. We affirm if there is substantial probative evidence to support the conclusion. K.S. v. State, 849 N.E.2d 538, 543 (Ind. 2006). We only reverse a juvenile court's decision if no reasonable fact-finder could have found the elements of the crime proven beyond a reasonable doubt. Drane v. State, 867 N.E.2d 144, 146 (Ind. 2007). In order to overcome reasonable doubt, the State does not need to overcome every reasonable hypothesis of innocence. Id. at 147.

Battery as a class A misdemeanor is governed by Indiana Code Section 35-42-2-1. It provides: "[A] person who knowingly or intentionally touches another person in a rude, insolent, or angry manner commits battery, a Class B misdemeanor. However, the offense is: (1) a Class A misdemeanor if: (A) it results in bodily injury to another person." I.C. § 35-42-2-1. The State was required to prove beyond a reasonable doubt that T.T. touched Stinson in a rude, insolent, or angry manner, resulting in bodily injury.

On appeal T.T. argues the State did not meet its burden and did not prove beyond a reasonable doubt that he was one of the boys who hit Stinson. In his argument, T.T. states Stinson's testimony was not "entirely reliable," because he was the sole witness to testify that T.T. hit him, and that the circumstances[1] surrounding the incident were enough to create a reasonable doubt whether T.T. actually hit Stinson. Appellant's Br. p. 5. T.T. argues that these circumstances created reasonable doubt because Stinson could have said one or more of the boys hit him without being able to say which particular boy hit him. T.T. further argues Stinson's testimony was inherently contradictory because during trial R.M., another boy who was in the group that assaulted Stinson, testified that T.T. was not close enough to Stinson's bike to have hit Stinson and R.M. did not see T.T. hit Stinson. R.M. also testified that only one of the boys hit Stinson, and it was another one of the boys who hit Stinson.

[1] The circumstances alleged by T.T. are that it was 11:00p.m, and as the group passed on both sides of Mr. Stinson, and as one or more of the boys threw punches at him, Mr. Stinson ducked his head to protect his face and so could not see the boys hitting him.

T.T.'s exact legal argument is not entirely clear.[2] To the extent T.T. is trying to invoke the incredible dubiosity rule, that rule does not apply in this situation. The incredible dubiosity rule allows a reviewing court to impinge on the fact-finder's responsibility to judge witness credibility when a sole witness presents inherently contradictory testimony that is equivocal or the result of coercion and there is a complete lack of circumstantial evidence of the defendant's guilt. Corbett v. State, 764 N.E. 2d 622, 626 (Ind. 2002). Even though R.M.'s testimony is in direct contradiction of Stinson's testimony, we do not find Stinson's testimony inherently contradictory. We do not find Stinson's testimony to be equivocal; however, even if the testimony were equivocal, identification evidence does not need to be unequivocal to sustain a conviction. Scott v. State, 871 N.E.2d 341, 344 (Ind. Ct. App. 2007), trans. denied. The uncorroborated testimony of one witness may be sufficient to sustain a conviction on appeal. Pinkston v. State, 821 N.E. 2d 830, 842 (Ind. Ct. App. 2004), trans. denied.

T.T. is asking us to reweigh the evidence and judge witness credibility, and we cannot do that. Drane, 867 N.E.2d at 146. We look only to the evidence most favorable to the juvenile court's judgment. See K.S., 849 N.E.2d 538 at 543. Stinson testified he knew T.T. was one of the first boys who hit him because T.T. was the closest to him. The State presented enough evidence of probative value from which the juvenile court could have found T.T. was one of the boys who committed battery against Stinson. The juvenile court had the exclusive responsibility to decide whether to believe the given

[2] T.T. does not argue that the way Stinson identified him after being apprehended by police was impermissibly suggestive.

testimony after observing the witnesses first-hand and determining their credibility. We will not interfere with the juvenile court's decision.

II. Commitment to DOC

T.T. next contends the juvenile court abused its discretion when it granted wardship of T.T. to the DOC until he reaches age twenty-one because it was not the least restrictive alternative. We disagree. "The choice of a specific disposition of a juvenile adjudicated a delinquent child is within the sound discretion of the juvenile court, subject to the statutory considerations of the welfare of the child, the community's safety, and the Indiana Code's policy of favoring the least harsh disposition." D.S. v. State, 829 N.E.2d 1081, 1084 (Ind. Ct. App. 2005). We will not reverse a juvenile disposition absent a showing of an abuse of discretion. Id. "An abuse of discretion occurs when the [juvenile] court's action is clearly erroneous and against the logic and the facts and circumstances before the court, or the reasonable, probable, and actual deductions to be drawn therefrom." Id. (bracketed text in original).

The statutory scheme for dealing with delinquent juveniles is different than the statutory scheme for sentencing adult criminals. Id. "American society [has] rejected treating juvenile law violators no differently from adult criminals in favor of individualized diagnosis and treatment." State ex re. Camden v. Gibson Circuit Court, 640 N.E.2d 696, 697 (Ind. 1994) (bracketed text in original). Indiana has a well-established policy of ensuring that "children within the juvenile justice system are treated as persons in need of care, protection, treatment, and rehabilitation." D.S., 829 N.E.2d at 1084. Indiana Code Section 31-37-18-6 provides:

> If consistent with the safety of the community and the best interest of the child, the juvenile court shall enter a dispositional decree that (1) is in the least restrictive (most family like) and most appropriate setting available; (2) is close to the parents' home, consistent with the best interest and special needs of the child; (3) least interferes with family autonomy; (4) imposes the least restraint on the freedom of the child and the child's parent, guardian, or custodian; and (5) provides a reasonable opportunity for participation by the child's parent, guardian, or custodian.

The goal of the juvenile justice system is to rehabilitate, rather than punish, the juvenile. E.H. v. State, 764 N.E.2d 681, 685 (Ind. Ct. App. 2002), trans. denied.

T.T. argues his commitment is punitive in nature and does not further the goal of rehabilitation. "Although less harsh options than commitment to an institution are available for the juvenile court to utilize, there are times when commitment to a suitable public institution is in the best interest of the juvenile and of society." D.S., 829 N.E.2d at 1085 (internal quotations omitted).

In the present case, the juvenile court's dispositional order stated as its basis for disposition that: (1) T.T. has a prior history of delinquent activity and true findings; (2) previous dispositional alternatives had been exercised (docket fee, probation, placement in home, restitution, community service work, suspended commitment to the DOC), and (3) T.T. was in need of care, treatment, rehabilitation, or placement best provided by the DOC. App. pp. 77-78.

It is clear from the transcript of the disposition hearing that the juvenile court considered that T.T. had been active with the court since 2004, had four true findings, two of which were felonies, and numerous violations of probation. In addition he

received numerous services, home based counseling that failed, and formal and informal home detention that also failed. The juvenile court believed anything short of a commitment to the DOC would not have a chance of rehabilitating and impressing on T.T. the seriousness of his actions, and the court believed commitment to the DOC until he reaches age twenty-one was in T.T.'s best interest.

In light of T.T.'s failure to respond to the numerous less restrictive alternatives already afforded to him, we cannot say that the juvenile court abused its discretion in committing him to the DOC until age twenty-one.

Conclusion

The State presented sufficient evidence of probative value to uphold T.T.'s adjudication for battery, and the juvenile court did not abuse its discretion when it committed T.T. to the DOC until age twenty-one. We affirm.

Affirmed.

FRIEDLANDER, J., and DARDEN, J., concur.